

## REMOVING OPPORTUNITIES FOR ABUSE

There is often a pattern to human rights abuses — they occur in predictable places under predictable circumstances. Recognizing those patterns and disrupting them can be key to protecting human rights. If torture is known to be a problem in prisons, then keeping people out of prisons may prevent torture. If a government can erode intellectual freedom by seizing personal information, then making sure that few records exist in the first place may prevent that loss of freedom. The tactics in this section have all been used to prevent human rights abuses and problems by making them impossible — by simply removing any opportunities for abuse.

## Workers Saving their Factories and Saving their Jobs: Using an expropriation law to ensure economic rights are protected.

TACTIC

When businesses close and jobs disappear, individuals, families and communities risk falling into poverty. In Argentina’s recent economic downturn, many businesses have closed or gone bankrupt.

Workers in Argentina have tried to prevent job losses by refusing to stop working when their employers’ businesses go bankrupt. Jobs at nearly 200 *fabricas recuperadas*, or recuperated factories, have been saved by workers who use a little-known expropriation law to prevent removal of equipment by creditors and to seek receivership of the factories. The businesses range from ice cream factories and metal works to four-star hotels and shipyards.

Once hailed as an “economic miracle,” Argentina slipped into recession in the late 1990s, pushing many Argentinians into poverty. The factory occupation movement arose spontaneously in response to economic decline. The approach has followed a general pattern.

First, the business falls into bankruptcy or is abandoned. The workers take over the business and run it cooperatively, preventing creditors from removing machinery while seeking a court order granting them the right to continue the business in compensation for unpaid back wages. This order is granted under a law originally intended to allow local governments to seize property for public works projects. The workers must agree to pay the owners the fair value of the assets over an established period of time and can pay themselves only if they turn a profit.

More than 10,000 jobs have been saved as a result of this tactic and workers in several recuperated factories are on their way to owning the assets of the businesses they occupied.

The use of the expropriation law to justify this occupation arose in desperation and yet has the potential to do more than simply keep the businesses open. It is a step toward preventing the poverty that could spread through vulnerable communities and toward raising the standard of living. It is an expression of the right to work and protect one’s livelihood, as set forth in the Universal Declaration of Human Rights.

## Community Mediation: Creating alternative mechanisms of dispute resolution to prevent the involvement of the police, who are potential abusers.

This tactic arises from the idea that we can keep people out of police stations — and thus out of danger of being tortured — by mediating conflicts outside of the court system.

As an alternative to the criminal justice system, the Centre for Victims of Torture (CVICT) in Nepal has created a process of community mediation. This process keeps some people from being needlessly arrested and brought to police stations, where 60 percent of prisoners are tortured into giving confessions.

CVICT conducted research on what types of disputes were occurring, then developed a training course for community leaders, including women and Dalits (of the untouchable caste), on settling disputes with a rights-based community mediation method. Community mediation would be available for disputes other than violent crimes and to everyone, regardless of age, sex, class or social caste. To recruit trainers, CVICT held mass meetings in each community and asked for nominations. The trainers were then trained in human rights, local laws and methods of handling disputes. Many who were already involved in mediating disputes could build on their existing skills. These trainers then trained others at the local level.

These people make up committees that mediate disputes at the local level. Each committee is made up of at least 30 percent women and has at least one representative from the community's ethnic minorities. The steps and rules in the mediation process are very clear, beginning with a request for mediation and involving self-representation for both parties.

During the mediation session, five to nine trained mediators are placed between the parties of the dispute, who can also bring others to support them. The mediation committee explains the structure of the mediation process and the parties and their supporters each state their case. The mediators then involve the parties in a discussion of possible options for agreement. In general, the solutions emerge this way, from the parties in conflict and the community. However, the mediators are also empowered to decide that further investigation or legal action is necessary. The mediator can decide to file a case on behalf of one of the parties, which has resulted in the wealthy being willing to engage in the process.

In the three districts that have implemented it, the mediation system is improving access to justice and the dynamics of power. It is also greatly reducing the number of arrests; in the first year, two-thirds of cases were resolved through mediation while one-third went to the police and the courts. CVICT's community mediation project has been able to resolve a large number of local disputes, create awareness about human rights and reduce conflict within families and between neighbors. CVICT is expanding the project to twelve districts, where one-third of the country's population will have access to it.

Because torture in Nepal is often used in police stations as an interrogation tool, mediation is an effective way of preventing torture by keeping people out of the stations. This tactic has other significant benefits as well: it expands access to justice for people who may have no other ways to resolve their disputes or bring complaints against the wealthy and it trains local people to take on or expand their leadership roles in their communities.

“ ” | *I come from a village. Many of my colleagues work at the village level. People are always complaining about the time it takes to resolve disputes. When people can resolve their disputes in this way, it helps to prevent torture as well as giving people more time for development activities.*

— Bhogendra Sharma, Centre for Victims of Torture, Nepal

## Disposing of Records: Protecting freedom of thought and the right to privacy by destroying records that could be demanded by the government.

In the United States, a national professional organization is increasing its efforts to prevent potential infringements of privacy rights and intellectual freedom by making sure that as few records as possible are kept.

Traditionally, librarians throughout the United States have prevented restrictions on intellectual freedom by destroying unnecessary library records as soon as possible. The American Library Association (ALA) — the largest library association in the world, with over 64,000 members — has used its influence with members to oppose changes to federal law that reduce protection of library records.

Forty-eight states have laws on the books that make library patron records confidential. The ALA code of ethics and its confidentiality policy also protect patron privacy. The 2001 USA Patriot Act, however, specifically authorizes federal law enforcement agents to search library records and public computer terminals to see what books patrons are reading and what websites they are accessing as a way of preventing terrorism.

In response to the Patriot Act, libraries are reviewing their record retention policies to ensure that unnecessary records are purged as soon as possible. The ALA has developed guidelines that include recommendations for reducing unnecessary library patron records and eliminating all records as soon as they are no longer useful. Librarians across the country have the support of a powerful national organization behind them when they choose to eliminate patron records, which is fully within the bounds of the law.

The ALA, a powerful national organization, is using a fairly simple act of resistance and, when done across the country, one that is relatively safe for individual librarians. In more repressive contexts, such resistance, even though perfectly legal, may lead to reprisals.

PREVENTION	Region	Initiating Sector	Target Sector	Focus	Human Rights Issue
Removing Opportunities for Abuse <a href="http://www.newtactics.org">www.newtactics.org</a>	Asia	Civil Society	Society	Local	Torture

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## Publishing Indigenous Knowledge Online: Protecting cultural and economic rights of indigenous people by recording traditional ecological knowledge.

Many indigenous groups have found their ways of life greatly diminished when private corporations patent their traditional knowledge. A national science organization is working to stop this from happening.

The Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) has created an online searchable database of traditional ecological knowledge to prevent private companies from patenting that knowledge. The Traditional Ecological Knowledge Prior Art Database (T.E.K.\*P.A.D.) is located at [ip.aaas.org/tekpad](http://ip.aaas.org/tekpad).

Indigenous people all over the world have systematically cultivated plants and developed methods of using them for the benefit of their communities. Companies from the developed world have in some cases patented this knowledge without the permission of the communities themselves. The patents allow the holders to control the use and sale of the subject of the patent for a period of time, without any obligation to share profits with the communities. In some cases, the patent holder may be able to prevent those communities from using or benefiting from their own knowledge.

The database helps end this by making indigenous knowledge available in the public domain, thus defining it as "prior art." An invention can be patented only if it is new, useful and not obvious. If the invention or knowledge has been published somewhere — one form of what is called prior art — it is demonstrably not new. Traditional knowledge has been vulnerable to patenting by outside corporations because it has rarely been published anywhere or, if it has, is often overlooked.

Once the information is added to the database it is more easily located by U.S. Patent and Trademark Office (USPTO) and other patenting authorities during prior art searches. AAAS actively researches traditional knowledge that is unprotected and in the public domain, then adds the information to the database to further protect it.

T.E.K.\*P.A.D also allows people to submit entries. Individuals who submit entries must prove that they have prior consent from their communities. AAAS encourages communities to explore the issues associated with various options, including applying for patents themselves, before adding their knowledge to the database. A handbook developed to help communities evaluate their options is available at [shr.aaas.org/tek/](http://shr.aaas.org/tek/).

T.E.K.\*P.A.D.'s database currently protects 30,000 plants cultivated and managed by indigenous communities from patent exploitation.

When private corporations are allowed to hold patents on traditional knowledge that may form the basis of some communities' livelihoods, those communities may lose their cultural and economic rights. When they are no longer allowed to use that knowledge, or are forced to pay royalties, their livelihoods and traditions may be irreparably destroyed. The use of a recording and publishing tactic helps prevent that from happening.

It is intriguing that technology is being used to protect indigenous peoples' right to benefit from knowledge that is, in some cases, hundreds or thousands of years old. Online databases have also been used to build awareness of abuse, such as high levels of pollution in impoverished areas or widespread corruption, or to pressure for policy changes.